

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. E/1891/2007 – SM [BR]

Date 18/03/2009

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
U.P. STATE CO. LTD. (UNIT SAHARANPUR)
VILL. BIDVI, P.B. NO. 27, DISTT. SAHARANPUR (U.P.)
U.P. STATE CO. LTD. (UNIT SAHARANPUR)

Appellant
Vs
Respondent

C.C.E. MEERUT I

I am directed to transmit herewith a certified copy of Final order No. 216 / 2009 –SM[BR] dated 12.3.2009
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E. MEERUT I

EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.

2. Adv. / Consult

MR.AALOK ARORA,ADV

82-MISSION COMPOUND,SAHARANPUR (U.P.)

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7 M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT. U.P.

10 Nidheshak publications, I.P.Estate, new Delhi

11 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagaraya Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1

15 Office Copy

16 Guard file


Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO.I**

Excise Appeal No. 1891 of 2007

[Arising out of order-in-appeal No. 72-CE/MRT-I/2007 dated 18.4.2007 passed by the Commissioner (Appeals), Central Excise, Meerut-I]

Date of Hearing/Decision : 06.02.2009

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, Vice-President

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982.	No
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3	Whether Their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	yes

M/s U.P. State Sugar Corporation Limited

Appellant
[Rep. by Mr. Alok Arora, Advocate]

Versus

CCE, Meerut-I

Respondent
[Rep. by Mr. Sansar Chaud, DR]

CORAM: Hon'ble Ms. Jyoti Balasundaram, Vice-President

Final Order No. 216/09-SM(BR)

Per Jyoti Balasundaram:

Credit on welding electrodes has been disallowed by the authorities below.

2. I have heard both sides and perused the records. The issue stands settled in favour of the assessee by the decision of the Rajasthan Hon'ble High Court in Hindustan Zinc Limited vs. Union of India -2008 (87) RLT 563 (Raj.) and therefore although a SLP filed by the assessee against the order of the Tribunal in

Steel Authority of India Limited holding that credit was not admissible on welding electrodes and gases used for repair and maintenance of machinery was dismissed by the Apex Court as seen from 2008 (229) ELT A127 (SC) in the case of Steel Authority of India Limited Ltd., vs. Commissioner, it is to be noted that what has been dismissed by the Apex Court is a SLP by condoning delay as facts of the present case. The doctrine of merger does not apply in such cases. Following the ratio of the High Court decision in Hindustan Zinc Limited, I set aside the impugned order and allow the appeal.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]